

## **CODE OF ARBITRATION PROCEDURE**

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## **10001. Nasdaq Regulatory Contract with NASD Regulation**

Nasdaq and NASD Regulation, an affiliate of NASD, are parties to the Regulatory Contract, pursuant to which NASD Regulation has agreed to perform certain functions described in the Rule 10000 Series on behalf of Nasdaq. Nasdaq Rules that refer to the Nasdaq Regulation, Nasdaq Regulation staff, Nasdaq staff, and Nasdaq departments should be understood as also referring to NASD staff, NASD Regulation staff and NASD departments acting on behalf of Nasdaq pursuant to the Regulatory Contract.

Notwithstanding the fact that Nasdaq has entered into the Regulatory Contract with NASD Regulation to perform some of Nasdaq's functions, Nasdaq shall retain ultimate legal responsibility for, and control of, such functions. In addition, Nasdaq has incorporated by reference certain NASD rules. Nasdaq members shall comply with these rules and interpretations as if such rules and interpretations were part of Nasdaq's rules.

## **10100. Jurisdiction**

Every member or associated person of Nasdaq shall be subject to the Code of Arbitration Procedure of The National Association of Securities Dealers, Inc., for every claim, dispute, or controversy arising out of or in connection with the securities business of any member or associated person involving disputes outlined in Nasdaq Rule 10101. For the purposes of this Rule, each member or associated person of Nasdaq shall be subject to and shall abide by the NASD Code of Arbitration Procedure as if such member or associated person were a "member" or "associated person" of the NASD.

## **IM-10100. Failure to Act Under Provisions of NASD Code of Arbitration Procedure**

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of [Rule 2110](#) for a member or a person associated with a member to:

- (a) fail to submit a dispute for arbitration under the NASD Code of Arbitration Procedure as required by that Code;
- (b) fail to comply with any injunctive order issued pursuant to NASD [Rule 10335](#);
- (c) fail to appear or to produce any document in his possession or control as directed pursuant to provisions of the NASD Code of Arbitration Procedure;
- (d) fail to honor an award, or comply with a written and executed settlement agreement, obtained in connection with an arbitration submitted for disposition pursuant to the procedures specified by the National Association of Securities Dealers, Inc., the New York, American, Boston, Cincinnati, Chicago, or Philadelphia Stock Exchanges, the Pacific Exchange, Inc., the Chicago Board Options Exchange, the Municipal Securities Rulemaking Board, or pursuant to the rules applicable to the arbitration of disputes

before the American Arbitration Association or other dispute resolution forum selected by the parties where timely motion has not been made to vacate or modify such award pursuant to applicable law; or

(e) fail to comply with a written and executed settlement agreement, obtained in connection with a mediation submitted for disposition pursuant to the procedures specified by the National Association of Securities Dealers, Inc.

All awards shall be honored by a cash payment to the prevailing party of the exact dollar amount stated in the award. Awards may not be honored by crediting the prevailing party's account with the dollar amount of the award, unless authorized by the express terms of the award or consented to in writing by the parties. Awards shall be honored upon receipt thereof, or within such other time period as may be prescribed by the award.

Action by members requiring associated persons to waive the arbitration of disputes contrary to the provisions of the Code of Arbitration Procedure shall constitute conduct that is inconsistent with just and equitable principles of trade and a violation of [Rule 2110](#).

#### **10101. Matters Eligible for Submission**

This Code of Arbitration Procedure is prescribed and adopted for the arbitration of any dispute, claim, or controversy arising out of or in connection with the business of any Nasdaq member, or arising out of the employment or termination of employment of associated person(s) with any member, with the exception of disputes involving the insurance business of any member which is also an insurance company:

- (a) between or among members;
- (b) between or among members and associated persons;
- (c) between or among members or associated persons and public customers, or others; and
- (d) between or among members, registered clearing agencies with which Nasdaq has entered into an agreement to utilize Nasdaq's arbitration facilities and procedures, and participants, pledgees, or other persons using the facilities of a registered clearing agency, as these terms are defined under the rules of such a registered clearing agency.

#### **10102. Non-Waiver of Nasdaq Objects and Purposes**

The submission of any matter to arbitration under the NASD Code of Arbitration Procedure shall in no way limit or preclude any right, action or determination by Nasdaq which it would otherwise be authorized to adopt, administer or enforce. If any matter comes to the attention of an arbitrator during and in connection with the arbitrator's

participation in a proceeding, either from the record of the proceeding or from material or communications related to the proceeding, that the arbitrator has reason to believe may constitute a violation of Nasdaq's Rules or the federal securities laws, the arbitrator may initiate a referral of the matter to Nasdaq for disciplinary investigation; provided, however, that any such referral should only be initiated by an arbitrator after the matter before him has been settled or otherwise disposed of, or after an award finally disposing of the matter has been rendered pursuant to Rule 10330 of the NASD Code of Arbitration Procedure.